

# **Exhibit 5**

**From:** [nry4@aol.com](mailto:nry4@aol.com)  
**To:** [Thompson, James](#)  
**Subject:** Re: Capogrosso v. Gelbstein, et al., No. 18 Civ. 2710 (EDNY) - Letter to Court Certifying Service  
**Date:** Friday, March 20, 2020 9:04:57 PM  
**Attachments:** [Letter to J. Bloom Koletti on Sanctions .docx](#)  
[image004.png](#)

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My conduct has been perfectly acceptable.

My motion has been filed with the Court today March 20, 2020.

Again, I expect all your filings with the Court by US postal mail.

Mario H. Capogrosso

-----Original Message-----

From: Thompson, James <[James.Thompson@ag.ny.gov](mailto:James.Thompson@ag.ny.gov)>  
To: nry4@aol.com <[nry4@aol.com](mailto:nry4@aol.com)>  
Sent: Fri, Mar 20, 2020 3:09 pm  
Subject: RE: Capogrosso v. Gelbstein, et al., No. 18 Civ. 2710 (EDNY) - Letter to Court Certifying Service

Dear Mr. Capogrosso,

I have mailed you a hard copy of the Court's Order from Wednesday, Dkt. No. 118, as was noted in my previous email to you. I also sent you a copy, via email, of the letter sent to the Court and the affirmation of service, which further demonstrates that I have in fact mailed the Court's Order to you. I have not separately mailed you a copy of the letter to the Court enclosing the affirmation of service, Dkt. No. 119, because I am working from home and attempting to maintain quarantine, but I did send it to you electronically, and you have manifestly received it.

Your conduct in this exchange, both in your threat of sanctions and your demeanor more generally, falls well below what should be expected of an attorney practicing in this Court, and below what is called for in the New York State Standards of Civility. See 22 N.Y.C.R.R. § 1200, Appendix A. Regarding your threat of sanctions, I will only note briefly that OAG has made sure you received copies of our filings promptly after filing them, and point out that a frivolous motion for sanctions is, itself, sanctionable.

I hope that going forward we can work together amicably, treat one another with professional courtesy, and ensure the smooth progress of this litigation.

Yours sincerely,

James

**James M. Thompson | Assistant Attorney General**  
New York State Office of the Attorney General, Litigation Bureau  
28 Liberty Street, 17<sup>th</sup> Floor | New York, NY 10005



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**From:** nry4@aol.com <nry4@aol.com>  
**Sent:** Friday, March 20, 2020 2:00 PM  
**To:** Thompson, James <James.Thompson@ag.ny.gov>  
**Subject:** Re: Capogrosso v. Gelbstein, et al., No. 18 Civ. 2710 (EDNY) - Letter to Court Certifying Service

[EXTERNAL]

Keep this simple

Are you sending me a hard copy of the Court's last order - dated March 18, 2020.

If I do not get a hard copy within three days I will move the Court for Sanctions

I called the Court and they indicated that you have been ordered to serve me a hard copy of the Court's Order of March 18, 2020.

Serve the Order.

Your last email states "I **will not be** sending a hard copy of this document to you"

Serve the Order.

Mario H. Capogrosso

-----Original Message-----

From: Thompson, James <[James.Thompson@ag.ny.gov](mailto:James.Thompson@ag.ny.gov)>  
To: [nry4@aol.com](mailto:nry4@aol.com) <[nry4@aol.com](mailto:nry4@aol.com)>  
Sent: Fri, Mar 20, 2020 12:15 pm  
Subject: Capogrosso v. Gelbstein, et al., No. 18 Civ. 2710 (EDNY) - Letter to Court Certifying Service

Dear Mr. Capogrosso,

Attached please find an electronic copy of a letter to the Court, certifying that I sent you a hard copy of the Court's March 18 Order, which you indicated that you had already received. Please note that as I am working remotely due to the coronavirus, without support staff and with limited ability to print or mail documents, I will not be sending a hard copy of this document to you.

Best,

James

**James M. Thompson | Assistant Attorney General**  
New York State Office of the Attorney General, Litigation Bureau  
28 Liberty Street, 17<sup>th</sup> Floor | New York, NY 10005



Tel: (212) 416-6556 | [James.Thompson@ag.ny.gov](mailto:James.Thompson@ag.ny.gov)

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# Attachments Omitted